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THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE COALITION TO PROTECT PUGET
SOUND HABITAT,

Plaintiff,

v.

U.S. ARMY CORPS OF ENGINEERS, *ET*
AL.,

Defendants,

and

TAYLOR SHELLFISH COMPANY, INC.

Defendants-Intervenor.

No.: 2:16-cv-00950-RSL

DECLARATION OF THOMAS A NEWLON

1. My name is Thomas A. Newlon. I am over the age of 18, and have personal knowledge of the matters contained in this Declaration. I make this Declaration in support of the plaintiff's motion and memorandum in support of an award of attorneys' fees and expenses under the federal Equal Access to Justice Act ("EAJA") in the case of *Coalition to Protect Puget Sound Habitat v. U.S. Army Corps of Engineers et al.*, 2:16-cv-00950 (W.D. Wash.).

2. I am licensed to practice law in Washington, and am currently Special Counsel at the law firm of Stoel Rives LLP in Seattle, Washington, where I was a partner from 2002 to 2020. Before joining Stoel Rives, I was Senior Port Counsel at the Port of Seattle (1992–2002);

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1 an assistant professor at Walter F. George School of Law, Mercer University, Macon, Georgia
2 (1991–1992); and an associate at the law firm of Perkins Coie (1986–1991). I have practiced
3 environmental law nearly exclusively for the entirety of my 35-year legal career. Prior to
4 becoming a lawyer, I was a research biologist working for government agencies and
5 consultants.

6 3. I am very familiar with the market for legal services for environmental matters in
7 Seattle and the rates commonly charged for such work, particularly high-stakes environmental
8 litigation and work involving specialized expertise in the statutory and regulatory frameworks
9 of environmental law.

10 4. I have reviewed the briefing in this case, as well as the decision issued by the U.S.
11 District Court for the Western District of Washington. Based on my review of the issues
12 presented and the course of the litigation, I believe that this is precisely the kind of complex and
13 high-stakes environmental litigation that necessitates the use of attorneys with special expertise
14 in environmental litigation.

15 5. Successfully advancing the claims in a case like this requires a thorough
16 understanding of a complex regulatory scheme and how that scheme applies to the particular
17 facts of the case. I do not believe that the plaintiff, Coalition to Protect Puget Sound Habitat
18 (“Plaintiff”) would have been able to retain qualified counsel for a case of this nature at the
19 EAJA statutory cap of approximately \$210 per hour (within the Ninth Circuit, adjusted for cost
20 of living). That rate is drastically lower than the prevailing rates for experienced counsel
21 handling these types of matters.

22 6. I have reviewed the requested hourly rates underlying Plaintiff’s Motion and
23 Memorandum in Support of an Award of Fees and Expenses (Dkt. Nos. 99-103); namely,
24 \$640/hour (Mr. Anuta), \$650/hour (Mr. Tienison), and \$300/hour (Mr. Sargetakis). In my
25 experience, the hourly rates charged in this matter are reasonable and consistent with the nature
26 of the work performed and the results achieved.

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1 7. The case required specialized knowledge of the federal National Environmental
2 Policy Act and the federal Clean Water Act and the interplay between them, as well as the U.S.
3 Army Corps of Engineers' obligations and permitting practices under both federal laws. It also
4 required the detailed review of an extensive Administrative Record and extensive briefing by
5 counsel with that specialized knowledge. In light of these factors, it is my opinion that the
6 hourly rates sought by Plaintiff's counsel in this matter are reasonable.

7 8. The hourly rates requested by Plaintiff's counsel in this matter are also reasonable
8 in that they are in line with market rates for complex and specialized environmental litigation in
9 Seattle. From 2013 through 2020, I charged rates from \$530-\$715/hour, equating to a 2013-
10 2020 average rate of \$613/hour and a 2016-2020 average rate of \$654/hour. For the same
11 period, my colleague Beth Ginsberg (a specialist environmental litigator in our firm's Seattle
12 office) charged rates from \$545-\$730/hour, equating to a 2013-2020 average rate of \$624/hour
13 and a 2016-2020 average rate of \$663/hour.

14 9. Furthermore, I know from discussions with colleagues at other firms that senior
15 environmental litigators at other top-tier environmental firms in Seattle charge somewhat higher
16 rates than Stoel Rives. They have done so consistently since 2013 (the first year of fees at issue
17 in this matter).

18 10. With respect to Mr. Sargetakis' requested associate rate of \$300/hour, an
19 environmental litigation associate who began his practice in Stoel Rives' Seattle office in 2018
20 charged \$335-\$385/hour for the years 2018 through 2020, equating to a 2018-2020 average rate
21 of \$362/hour. That is significantly higher than the \$300/hour requested for the time of Mr.
22 Sargetakis, who worked on this matter as an associate in his first three years of practice from
23 2018 through 2020. As with partners, I know from discussions with colleagues at other firms
24 that environmental litigation associates at other top-tier environmental firms in Seattle charge
25 somewhat higher rates than Stoel Rives, and they have done so consistently since 2013.

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1 11. Based on my knowledge of Seattle market rates for environmental litigators and
2 specialist practitioners, the rates requested by Plaintiff's counsel in this case – \$640/hour (Mr.
3 Anuta), \$650/hour (Mr. Tienson), and \$300/hour (Mr. Sargetakis) – are reasonable in light of the
4 prevailing rates in the Seattle community for similar work.

5 I declare under penalty of perjury that the foregoing information is true and correct to the
6 best of my knowledge and belief.

7 Executed on June 8, 2021

8 

9
10 Thomas A. Newlon

CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2021 I electronically filed this DECLARATION OF THOMAS A. NEWLON with the Clerk of the Court using the CM/ECF system which will send notification of such filing on the following:

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Dated this 1st day of July 2021.

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